THE ADOPTION OF CHILDREN BILL,1997

SHRI M.A. BARY(Kerata): Madam I beg to move for leave to' introduce a 8ill provide for the adoption of children and for matters connected therewith and incidental thereto.

The question was put and the motion was adopted.

SHRI M.A. BABY: Madam, I introduce the Bill.

THE CONSTITUTION (AMENDMENT) BILL, 1992 (TO AMEND ARTICLE 77) — Contd

श्री एस .एस .अहलुवालिया)बिहार:(महोदय मैं ,संविधान)संशोधन (विधेयक 1992जिसका मुख्य उद्देश्य राष्ट्रों की नीतियों और उनके सामाजिक आर्थिक जीवन में अन्तर्राष्ट्रीय संगठनों द्वारा किये जा रहे हैं हस्तक्षेप तथा उनकी बढ़ती हुई भूमिका और कुछ देशों द्वारा द्विपक्षीय एंव बहुपक्षीय स्तर पर किये जा रहे सौदों तथा समझौतों ,के दूरगामी परिणामों को देखते हुए इस बात की संभावना स्पष्ट दिखाई देती हैं कि कुछ ऐसे करार और समझौते के ज्ञापन देश के व्यापक और दीर्घकालिक हितों के विरूद्ध जाए । व्यापार और टैरिफ संबधी सामान्य करार)गेट (में वर्तमान में चल रही वार्ताओं के संदर्भ में इस बात की व्यापक रूप से मांग की गयी है कि देश की आर्थिक प्रभुता पर गहरा प्रभाव डालने वाले इन मामलों पर कोई निर्माण लिये जाने से पूर्व संसद तथा लोगो को विश्वास में लिया जाने से पूर्व तथा लोगों को विश्वास में लिया जाना चाहिए ,ऐसे उददेश्यों और कारणों के माध्यम से हमारे विद्धान मित्र श्री एम.ए .बेबी ने यह विधेयक पेश किया है मैं इसके बारें में बोलने के लिए खड़ा हुआ हूं ।

महोदय ,पिछले कई वर्षों से इस सदन ने बहुत सारे उतार-चढ़ाव देखें हैं । व्यापार और टैरिफ संबधी सामान्य करार अर्थात "गेट" के बारे में बहुत-सी चीजें हुई । कभी डंकल प्रपोजल आया , कभी "गेट" के पेपर आए और बहुत-सी चीजें आई ।महोदया ,हम ध्यान से देखें कि आखिर यह "गेट" है क्या ?यह एक काला भूत हैं ,काली छाया है या कोई ऐसा करार है जो कि सारे विश्व में होने जा रहा है ?यह कौन सा करार हैं ?इस बार में जानने की जरूरत है ।

महोदया ,"गैट" सन् 1948में बना । 1946में जब "एटोमिक हॉलोकॉस्ट हुआ ,एटम बम गिरा तो सारा विश्व स्तब्ध होकर रह गया । जब हिरोशिमा , नागासाकी में यह घटना घटी तब सारे विश्व के नेताओं ने कोई-न-कोई फैसला करने की बात सोची कि आखिर हमारी इस पृथ्वी का ,इस पूरे भू-मण्डल का भविष्य क्या हैं ?तब उन्होनें इस बारे में कुछ निर्धारण करने की जरूरत समझी । उन्होनें जरूरत समझी कि हम किस तरह से विश्व में शांति कायम कर सकते हैं क्योंकि आहिस्ता-आहिस्ता वह जमाना समाप्त हो रहा था जब मंगोलिया से चंगेज खान घोड़े पर बैठकर आता था और लुटेरों की तरह लूट कर चला जाता था । वह जमाना भी दूर जा रहा था जब सम्राट अशोक ग्रेट कलिंग वार लड़ने के लिए जाता है ,खून की नदियां बहाता है और जब लौटकर आता है तो अपने बेटे और बेटी को बौद्ध धर्म में जाते हुए ,बुद्धम शरणम करते हुए पाता है और गंगा के किनारे पाटलीपुत्र में रोते रोते खुद बौद्ध धर्म भिक्षुओं के सामने शरणागत होकर कहता है कि मैं भी बौद्ध धर्म भिक्षु बन जाता हूं । मैं जिन के लिए राज्य जीतकर आया था जब वे उस का उपभोग नहीं कर रहें तो मैं भी " अहिंसा परमो धर्म" का नारा लगाकर उस रास्ते पर चलता हूं ।

महोदया, मैं समझता हूं कि यही से प्ररेणा मिली होगी उस वक्त पुरूषों को जब हिरोशिमा, मागासार्को पर एटम बम गिरा था तो उस के दूरगामी परिणामों को देखते हुए उस वक्त के नेताओं ने यह फैसला किया और ग्लोबिन विलेज का कंसेप्ट दिया । सारे विश्व को एक परिवार में बांधने की कोशिश की और उसी ने जन्म दिया । "गैट" के कई फाउंडर मेंबर बनें जिन में भारत भी एक था । हमारा पड़ौसी देश चीन भी उस का सदस्य था, पर 1949 में पता नहीं चीन को क्या सूझी और चीन उस करार की फाउंडर मेंबरशिप को त्यागकर चला गया । महोदया, उस के बाद एक लंबा सफर तय होता है 1949 से 1995-96 तक का कि जब "गैट" एक पूरा रूप लेकर 2000 ए.डी. तक वर्ल्ड ट्रेड ऑर्गेनाइजेशन का सपना लेकर सामने आता है ।

महोदया ,आज कोई भी देश में चाहे वह कितना भी शक्तिशाली हो ,अपना आधिपत्य क्षेत्र पर नहीं चढ़ा रहा । वह अपनी टैरिटरी को बढ़ाने की कोशिश नहीं कर रहा है । यह पहले होता था कि लोग अपने राज्यों ,अपने देशों की चौहद्दियां बढ़ाया करते थे । मगर आज कोई भी देश चाहे वह विश्व में कितना भी शक्तिशाली हो ,चाहे उस के पास हाइड्रोजन बम हो , न्यूक्लिअर बम हो ,एटम बम हो-वह अपनी चौहद्दी बढ़ाने की कोशिश नहीं करता । वह अपना बाजार बढ़ाने की कोशिश करता है । उसे मार्केट चाहिए , कंजूमर मार्केट चाहिए । यही कारण है कि आज वर्ल्ड ट्रेड ऑर्गेनाइजेशन के 7देश ऐसे हैं जो बहुत ही मायने रखते है । अब वे देश कौन से हैं ?वह देश हैं चाइना ,वह देश

हैं हिंदूस्तान ,वह देश हैं पकिस्तान ,वह देश है बांग्लोदश ,वह देश हैं श्रीलंका ,इंडोनेशिया और मलेशिया जहां सिर्फ बाजार ही नहीं चीप लेबर भी उपलब्ध है ।

यही कारण है कि यह कन्सेप्ट लेकर आगे बढ़े । हमारे देश में 93करोड़ लोग हैं ,जिनके भविष्य का निर्धारण करने की जिम्मेदारी हम लोगों की हैं , भारतीय सरकार की हैं ,राज्यों की सरकारों की हैं और सांसदों की हैं । इस पर फैसला लेने के लिए हमें बहुत सारे निर्णय लेने पड़ते हैं ।

महोदया ,हमारे साथी एम.पी बेबी साहब ने जो मन में संदेह रखते हुए इस विधेयक को पेश किया हैं ,मैं उनके संदेह के बारे में समझता हूं । उनका कहना है कि इसके दूरगामी परिणाम हो सकते हैं , ऐसे समझौतों के ,ऐसे सौदों के ,ऐसी संधियों के दूरगामी परिणाम हो सकते हैं । इसके साथ-साथ उन्होनें अपने वक्तव्य मे बोलते हुए यह भी कहा है कि ऐसा विधेयक यूनाइटेड स्टेटस अमरीका में , जापान में जर्मनी में ,फ्रांस में ,इटली में ,स्पेनमें भी हैं ,और भी कई देशों में हैं । महोदया ,जब हम अपना कम्पेरिजन किसी और मुल्क के साथ करने लगें कि वहां क्या हैं और यहां क्या हैं ,तो हम बड़ें अचम्भे में पड़ जाते हैं । इन देशों में तो सबसे बड़ी बात यह है कि कि अमरीका में जापान में जर्मनी मे , फ्रांस में,इटली में ,स्पेन में ,हर जगह सोशल सिक्योरिटी हैं ,वहां सोशल सिक्योरिटी स्कीम हैं और उस सोशल सिक्योरिटी स्कीम के तहत करीब 90प्रतिशत वहां के लोग टैक्स पेयर हैं,जो हैवी टैक्स पे करते हैं इस सोशल सिक्योरिटी स्कीम को चलाने के लिए । तो क्या हम उनकी सोशल सिक्योरिटी स्कीम को देखते हुए अपने देश में भी उसी तरह से सोशल सिक्योरिटी स्कीम शुरू कर सकते हैं ?हमारे यहां देश में 930मिलियन लोग हैं इतीन पापुलेशन है ,लेकिन यहां 6.2मिलियन लोग ही टैक्स पे करते हैं । तो इन चीजों को भी समझने की जरूरत हैं ।

महोदया ,इन्होनें कहा कि हमारे संविधान के अनुच्छेद 253के तहत और 294के तहत हम बाहर से जो बोराइंग लेते हैं ,उसका निर्णय , उसका फैसला एक विधेयक के माध्यम से हमें संसद से लेना चाहिए । सुझाव अच्छा है ,और अगर सुझाव काम बिगाड़ने का हो तो कतई नहीं। आज तो सबसे बड़ा अंकुश आपके पास है । महोदया , जहां एक गवर्नमेंट सर्वेण्ट को हटाने के लिए तीन महीनें का नोटिस देना पड़ता है ,वह गवर्नमेंट एम्पलाई चपरासी हो या सचिव हो उसका निकालने के लिए तीन महीने का नोटिस देना पड़ता है,किन्तु वही एक प्रधानमंत्री को हटाने के लिए तीन महीने के नोटिस की जरूरत नहीं होती बल्कि सिर्फ 6घंटे की बहस के अंदर "नो कान्फीडेंस मोशन" लगाकर उसे परास्त कर बाहर भेजा जा सकता हैं,एक प्रधामंत्री को फार्मर प्राइम मिनिस्टर बनाया जा सकता है । तो ऐसा प्रावधान हमारे यहां संसद हैं । जिसके माध्यम से हमारी सरकारें चलती हैं । ,हमारी संसद चलती हैं । सबसे बड़ा अकुंश "नो कान्फीडेन्स मोशन" हमारे यहां हैं। इसका प्रयोग हमने पिछले दिनों में कई बार किया है , किन्तु वह राजनैतिक कारणों के लिए किया गया है । इसकी जरूरतों को मद्देनजर रखते हुए संधियों के कारण या सौदों के कारण या समझौतों के कारण कोई ऐसा केस बना हो ,जिसके ऊपर नो कान्फीडेंस मोशन आया हो तो वह समझने की जरूरत है ।

महोदया ,कुछ दिन पहले एक साधारण सी बात आई कि एनरोन प्रोजेक्ट में काउण्टर गारण्टी क्यों दी गई । इस पर ब़ड़ी बहस हुई ,बहुत बहस हुई और सरकार चली गई । दूसरे प्रधानमंत्री कुछ दिन के लिए आए और जब वह कुछ दिन के लिए आए ,वहां नो कान्फीडेंस मोशन चल रहा था ,उसी वक्त जब लंच ब्रेक हुआ तो काउण्टर गारण्टी हो गई । जो पार्टी कहती थी काउण्टर गारण्टी क्यों साइन हुई ,जो पार्टी विरोध करती थी ,और जो कहती थी कि फॉरेन प्रोजैक्ट का जो यह एग्रीमेंट है इसको हम जब पावर में आएंगे तो अरब सागर में फेंक देंगे ...

उसी पार्टी ने लंच ब्रेक में जाकर काउंटर गारंटी साइन कर दी । महोदया ,मेरी बात सीधी सी यही है कि अगर हम राजनीतिक कारणों से किसी विधेयक को पास करके अंकुश लगाना चाहता हैं या प्रगति को रोकना चाहते हैं तो बात दूसरी है ।

महोदया ,हम एक ऐसे दौर से गुजर रहें हैं , जहां समय बहुत कम हैं और मार्ग बहुत मार्ग तय करना है और मुझे तो कभी-कभी यह लगता है कि हम 100मीटर की रेस में खड़े हैं । जिस तरह 100 मीटर की रेस में जिसको शुरूआत नहीं मिलती , वह पिछड़ जाता है ,हमारा भी वहां हश्र होने वाला है ,दूसरी तरफ मांग हो रही है चाइना की तरफ से कि हम सारी मांगे पूरी करने के लिए तैयार है,हमें डब्ल्यू ,टी.ओ .का मैंम्बर बनाया जाए । मैनें पहले ही बताया कि "गैट" के पास 7ऐसे देश है ,जो मत्वहपूर्ण है ,उनमें चीन भी है ,भारत भी है और इस दौड़ में ,इस 100मीटर की रेस में अगर हम शुरूआत में पिछड़ गए तो हम सारी दौड़ में पिछड़ जाएंगे और यह पिछड़ना मेरा और आपका पिछड़ना नहीं होगा ,यह पिछड़ना भारत की 93करोड़ जनता का पिछड़ना होगा और हम फिर पछताएंगे कि

हमारे लिए क्या हुआ । हम उस टाइम पछताकर भी कुछ नहीं कर सकेंगे ।

महोदया ,ट्रीटी की बात होती है ,हमारे मित्र ने बहुत अच्छा सुझाव दिया । अभी कुछ दिन पहले की बात थी ,शायद जब यह बिल पैंडिंग ही पड़ा था वहां पर ,यह डिस्कशन कर चुके थें । बंगला देश में हमारी ट्रीटी हुई और बंगला देश में हमने जो पानी की ट्रीटी की ,उस पर आज हमारे राज्य के मुख्य मंत्री बयान दे रहे हैं लालू यादव जी बयान दे रहें हैं -कि उस पानी के फैसले से बिहार को नुकसान हुआ । बंगाल की कुछ पार्टियों ने भी हल्ला किया लेकिन उस फैसले को करने से पहले किसने उस पर विचार-विमर्श किया या नेगोशिएट किया ? महोदया ,उसमें नेगोसिऐशन करने के लिए कोई केन्द्र सरकार का मंत्री नहीं गया था ,हमारे साथी के दल के ही मुख्य मंत्री ,ज्योति बसु जी गए थे और इस संसद में वह मुख्य मंत्री ,ज्योति बसु जी गए थे और उस संसद में वह मसला अगर आ गया होता तो शायद बंगला देश की ट्रीटी भी धरी की धरी रह जाती ,वह ट्रीटी न हुई होती । यहां पर खींचातानी होने लगती और यहां लोग चिल्लाने लगते कि नहीं , मैं पानी नहीं दूंगा । एक राज्य मांगता कि दे दो , दूसरा कहता कि नहीं दूंगा और बंगला देश में जो समझौता हम करने जा रहे थे ,वह नहीं कर पाते । यह हम इसलिए कर सके कि राष्ट्र ने जो ट्रस्ट हमें दिया है ,हमारे वर्तमान प्रधान मंत्री को ट्रस्ट दिया है कि वह यह निर्धारित कर सकें कि कोई बात नहीं , पश्चिमी बंगाल के मुख्य मंत्री भी जाकर , विचार-विमर्श करके ,नेगोसिएट करके जो फार्मुला लायेंगे,हम उस पर दस्तखत कर देंगे और उन्होनें उस पर दस्तखत कर दिए । छोटा सा सवाल है कि अगर इसी सदन में पड़ा रहता ,विधेयक पास होना होता तो पता नहीं शायद यह मामला21वीं या 22वीं सदी में चला जाता । महोदया,राष्ट्रपति जी ने अपने अभिभाषण में महाकाली संधि का ज़िक्र किया। महाकाली संधि ,जो भारत और नेपाल के बीच में हुई थी ,उसका जिक्र किया । महोदया ,आप अच्छी तरह से जानती है कि इस महाकाली संधि को करने के लिए भारत के तीन प्रधान मंत्री उत्सुक थे और नेपाल के तीन प्रधान मंत्री चाहते थे ,किन्तु नहीं कर पा रहे थे और उसका कारण यही था कि उसका अनुमोदन नेपाल की पार्लियामेंट के द्वारा होना था और नेपाल में जो विभिन्न दल थे ,वे नहीं चाहते थे कि यह संधि हो । इसलिए वहां के प्रधान मंत्री के चाहने के बावजूद ,भारत के स्वार्थ के बावजूद यह संधि नहीं हो पा रही थी । यह महाकाली संधि इसलिए हो सकी क्योंकि तीन प्रधान मंत्री वहां के और तीन प्रधान मंत्री यहां के अथक प्रयास करते रहे एक दूसरे को समझाने का और अंत में हमारे देश के फॉरेन मिनिस्टर को जाना पड़ा पहले प्रणव मुखर्जी गए ,उन्होनें जाकर वहां पर विपक्ष के सारे नेताओं से बैठकर बहस की और उन्हें बताया कि इस संधि से किस तरह से भारत और नेपाल के सौहार्दपूर्ण संबध बढ़ सकते हैं ,कैसे व्यापार बढ़ सकता है ,कैसे आवाजाही बढ़ सकती है ,कैसे और अधिक उन्नति हो सकती हैं..,।

सब कुछ बताया गया तब जाकर यह संधि हुई । अगर वे वहां पर अड़े रहते हैं और हम यहां पर अड़े रहते तो यह संधि नहीं हो सकती थी । आज बिहार के लिए ,बंगाल के लिए ,पूर्वांचल के लिए नेपाल महत्वपूर्ण हो सकता है लेकिन हो सकता है कि हमारे दूसरे राज्यों के सांसद उसको महत्व न दें । कुछ राजनीतिक पार्टियों के लिए वह महव्पूर्ण नहीं हो सकता है । तो अगर हम आरोप और प्रत्यारोप के झमेले में फंस जाते तो यह कार्यक्रम कभी नहीं हो पाता ।

महोदया ,चाऊ-एन-लाई के "हिंदी-चीनी भाई-भाई" के नारे के बावजूद भारत पर आक्रमण हुआ और उससे जो बिखराव हुआ ,जो दुश्मनी फैली ,जो वैमनस्य फैला उसकी समाप्त करने में कई दशक लग गए । राजीव गांधी चीन गए और चीन जाकर उन्होनें बातें की ,एक सौहार्दपूर्ण वातावरण बना और ये फैसले हुए । आज चीन के राष्ट्रपति ने भारत मे आकर एक पहल की है । महोदया ,हमारे देश में चीन विरोधी या चीन की नीतियों के विरोधी बहुत से दल हैं और वहां पर भी भारत-विरोधी दल बहुत सारे हैं । अगर हम उनके प्रभाव में आ गए तो हम नहीं समझते कि ऐसी संधियां हम कर सकेंगें ।

महोदया ,इन्होनें खासकर बोरांइग्स पर सवाल उठाया हैं । बोराइंग्स को कंट्रोल करने के लिए हमारे यहां बहुत सारी ऑटोनॉस आर्गेजाइनशंस हैं ,बहुत सारी संस्थाएं हैं जिनको हमें संदेंह की नज़र से नहीं देखना चाहिए वरन सौहार्द की नज़र से देखना चाहिए । हमारे देश ने तो बहुत छोटे-छोटे देशों से भी कर्ज़ लिए हैं । विश्व के जो छोटे-छोटे देश हैं ,उनसे भी हमने कभी एजुकेशन के नाम पर ,कभी हैल्थ-फैसिलिटीज़ के नाम पर ,कभी सड़क-निर्माण के नाम पर ,कभी पीने के पानी के नाम पर ,कभी रिसर्च के नाम पर , कभी डेवलपमेंट के नाम पर कर्ज़े लिए हैं । पर उन कज़ी पर जब हम अंकुश लगाने की बात करते हैं तो हम कौन सा रास्ता अपनाना चाहते हैं ?

महोदया ,एक तरफ तो हम कहते हैं कि हर चीज में हमें सब्सिडी मिलनी चाहिए ,हर चीज सब्सिडाइज्ड होनी चाहिए और दूसरी तरफ हमारी राष्ट्रीय आय बढ़ने का रास्ता नज़र नहीं आता । गांधी जी ने एक बार कहा था कि एक व्यक्ति अपने खाने-पीने और पहनने के बाद जो कुछ

संचय करता है ,वह पूंजीवादी हैं । वैसे पूंजीवादी व्यक्ति से टैक्स लेने के लिए विधेयक इस सदन में नहीं आता कि इस सबसे टैक्स लिया जाए । हम अपनी राष्ट्रीय आय कहां से बढ़ा सकते हैं ?टैक्स के माध्यम से आप अपने घर का उदाहरण ले लीजिए । आपके घर का खर्चा ज्यादा है ,आय कम हैं । आखिर आप कहां पहुंचते हैं ?काबुलीवाले के पास ,आप काबुलीवाले से कर्जा लेकर घर का खर्च चलाते हैं । आप रोक लगाइए कि विदेशी कर्ज़ा नहीं लेना है , हम आत्मनिर्भर होना चाहते हैं ,हम इसमें आपके साथ हैं ।आप विधेयक ले आइए कि जितने लोग गरीब रेखा से ऊपर हैं ,वे सब टैक्स अदा करें ,हम आपके साथ हैं । आप लें आएं ऐसा विधेयक । पर इन बातों पर चलने के लिए कोई तैयार नहीं हैं ।

महोदया ,चीन के एलान किया है कि मुझे वर्ल्ड ट्रेड आर्गेनाइजेशन का मेंबर बना दिया जाए ,मैं हर शर्त पूरी करने के लिए तैयार हूं । महोदया ,आश्चर्य होगा आपको कि जिस चीन में एक ही जोन था उसका नाम था रेड जोन और एक ही बुक चलती थी जिसका नाम था रेड बुक । आज वहां ब्लू जोन हैं , ग्रीन जोन हैं ,यलो जोन हैं,सैफर्न जोन हैं ,व्हाईट जोन हैं ,ब्लैक जोन है ,रेड जोन है । विब्ज्योर में जितने कलर है वह सारे जोन उन्होनें बना लिए और उन्हीं की किताबें चला रहे हैं । वह क्यों चला रहे हैं ? इसलिए चला रहे है कि उन्हें बाहर से इंवेस्टमेंट चाहिए और अपने देश में बाहर से इन्वेस्टमेंट लाने के लिए हर तरह की ढ़ील वह छोड़ने के लिए तैयार है । महोदया ,मैं आपके माध्यम से अपने साथी एम.ए .बेबी साहब को जो मार्क्सवादी कम्यूनिटी पार्टी की विचारधारा के हैं ,अगर अंतर्राष्ट्रीय क्षेत्र में देखा गया जाए तो चीन की कम्युनिस्टपार्टी की विचारधारा है। वह जरा देखकर आएं ।

विधि और न्याय मंत्रालय के राज्य मंत्री)श्री रमाकांत डी .खलप : (वह देखकर आए है ।

श्री एस.एस .अहलुवालिया : नहीं ,चीन को देख आकर भी भूल भ्रांति में हैं । शायद बिल को पेश करने के बाद गए थे ,इनको पता नहीं था । इसलिए इनको विदड्रो करना चाहिए । महोदया ,मेरा सीधा सा कहना है कि आप इस अंतराष्ट्रीय दौड़ में डब्लू.टी.ओ .की सदस्यता की जो दौड़ है वह एक लम्बा सफर है ,समय हमारे पास बहुत कम है । अगर आज भी अड़चनें आईं है कि हम इस विधेयक को नहीं लांएंगे ,उस विधेयक को नहीं लाएंगे और हम सिर्फ मांग करते हैं कि यहां सब्सडाईज्ड है ,वहां सब्सडाईज्ड है ,हो सकता है कि इस देश को आज तो मेन्टेन कर रहें हैं ,कल शायद वह भी नहीं कर सकें और हम मुसीबत में पड़ जांएगें । महोदया ,मेरा कहना है कि हम अगर वाकई आत्मनिर्भर हैं और एक सशक्त भारत का निर्माण करना चाहते हैं तो हमें देखना पड़ेगा कि हम इस दौड़ को कम समय में कैसे पूरा कर सकें । खेल के मैदान में जाते हैं ,वहां पर एक हर्डल रेस होती है । एक हर्डल लगी होती हैं ,और उसको जंप करके जाना पड़ता है । बड़ी कठिन रेस होती है । एक तो आदमी दौड़ नहीं सकता आजकल के जमाने में । ऊपर से अगर हर्डल लगी हो ,उसको जंप करके दौड़ाना हो तो और मुश्किल हैं । तो देश के बारे में यह हर्डल रेस न लगाएं । हमारे साथी यह कह सकते हैं कि 253में 294मे ऐसा प्रावधान क्यों रखा गया । हमारे पूर्व पुरूषों ने संविधान बनाते हुए ऐसा प्रावधान इसलिए रखा था कि हो सकता है कि हमारी संस्थांए जिनको रखा गया है कि अंकुश लगाएं ,अगर कोई गलत काम हो रहा है तो उस पर अंकुश लगाने के लिए जरूरत पड़े तो ऐसा अकुंश लग सके । पर ,वाकई आप समझते हैं कि आपकी सारी संस्थांए फेल हो चुकी हैं। क्या आपके पास में इसके सिवाए और कोई रास्ता नहीं हैं । महोदया ,यह लम्बा सफर तय करने के लिए हमें शॉर्ट कट रास्ता चाहिए ,हर्डल रेस वाला रास्ता नहीं चाहिए और उसके लिए मैं आपके माध्यम से महोदय ,इतनी ही मांग करूंगा कि हमारे साथी इस विधेयक को वापिस ले लें और वापिस लेकर कोई ऐसा विधेयक लांए जिससे वाकई हम अपने राष्ट्र को मजबूत और आत्म-निर्भर कर सकते हैं और वर्ल्ड ट्रेड आर्गेनाइजेशन की यह रेस है इस रेस में हम चीन से पीछे न रह जाएं ,चीन से आगे निकलें क्योंकि आने वाला कल को हमारे लिए देर हो जाएगी और उस देर से पहले हमें कोई फैसला लेना होगा । यही कहकर मैं इसका विरोध करता हूं ।

SHRI RAMACHANDRAN PILLAI (Kerala): Madam I rise to support, the Constitution (Amendment) Bill, 1992 and I congratulate my erudite friend, Shri MA-Baby, for introducing the Bill. I appeal to all my colleagues to support and pass this Bill.

I believe, if this Bill is adopted, it would take care of our national interests.

Today, not only our conutry, but the entire Third World as such, is passing through a very difficult situation. Actually, this new scenario and these new difficulties being faced by the Third World countries, including India, were not anticipated when we formulated our Constitution. That particular situation was entirely different from the present world situation and the present domestic situation.

In the present situation, the multinational companies and their political patrons, i.e. the imperialist countries—particularly, the U.S.A. —are trying to create new world organisations, trying to manipulate the world organisations, and are trying to twist the arms of the world organisations to suit their own interests.

Actually, our Constitution was framed during the post-second World War period. That situation was entirely different from the present situation. The imperialist countries, while taking part in the Second World War, were bled to white. Then, the socialist world was there. Dozens of countries became free; in Africa, in Asia, in Latin America, and in other parts of the world. Therefore, the tide was in favour of the national liberation movements. At that time, the imperialist countries were not powerful enough to impose their conditions on the Third World countries. They were not in a position to impose their conditions on India. As I said, as I explained, the tide was in favour of the national liberation movements.

Therefore, at that time, there was no need for such a provision, as is now being proposed by my learned friend, Mr. Baby. In the next two decades, we saw a lot of changes in the international scenario. We also saw a lot of changes in the domestic situation. For example, the concept of socialism has undergone a change. *1 am* not going into the details of the causes or their impact. The Imperialist countries engineered confiicts amblig the Third World countries. Therefore, in the; present situation, even among the Third" World countries, a lot of conflicts are- there; a lot of contradictions are there. There is no solid support, as in the past, from the socialist world to the Third World countries.

In the present situation, the imperialist countries—particularly, the U.S.A.—are in a posinon to dominate the world. This is what they are doing now. They are imposing a new 'World order. Look at the various treaties and the kind of world organisations created. For example, they want to impose on us the NPT, the nuclear non-proliferation treaty. What is it? They want to keep the monopoly of nuclear power with them. They do not want any other country to conduct experiments and produce nuclear weapons. They want to retain the monopoly. Therefore, they are trying to impose it on others. They are persuading, they are pressurising, and they are arm-twisting "the other countries into accepting this thing.

Same is the case with regard to.the CTBT; They want to keep their monopoly;of missile technology. They deny other countries 'the", opportunity of making experiments arid producing missiles. We know their attitude towards our experiments with regard to Agni and Prithvi. They pressurised and persuaded other countries not to help us. We know what they did with regard to the cryogenic technology. They persuaded Russia not to hand over that technology to India, and now they are advising us, "You lift all your tariffs, you allow free operation of the'tnarket forces." Why? There also, of course, they want to keep their interests because they know that because of the techology they have, their goods are more competitive and they want to exploit our country. They ask you for the free flow of capital, they ask you for the free flow of products, but they do not allow the" free flow of labour. They have put all sorts of restrictions. We have got enough unemployed youth in our country and they are ready to work- anywhere in the world, but they do not allow the free flow of labdur froth our country to other countries. On the othex-hand-ihey are insisting on the free flow of.capital,they are insisting on the free-flow of their agricultural products' and industrial products. Also, what are they tfbing with the help of paterit laws? They are alsojfryifig to deny access to science and technology. Actually, scientific and technological knowledge is the product of the entire humanity, but with the help of patent laws they are trying to-confine this knowledge for their own benefit. So, if they allow the free flow of knowledge, if they allow the use of the knowledge of Science and technology, of course, we, the third World countries, the developing countries, will be in a position to make use of this knowledge for increasing productivity and production, finding solutions to the problems of poverty and finding solutions to the problems of backwardness, but these countries are trying to restrict us. So, when we look at the overall international

situation, we find that the developed countries, particularly the imperialist countries, are in a position to exert pressure and extract more concessions from countries like India and other third world countries. So we have to take into consideration the changed world situation.

The second aspect that I would like to bring to the notice of this august House is the changes that have happened in the domestic situation. Actually, now we have entered a stage of coalition politics at the Centre. Of course, these coalitions have their merits and demerits. The present United Front Ministry is a post-election United Front. Of course, there is every possibility that the components of a coalition may have different perceptions with regard to all these issues. These perceptions can be made use of by the dominant countries.

Also, the extent of exposure to national and international developments varies from party to party and from person to person. So, in such a situation, we must be careful and we must protect our national interests in the context of this changed international situation. So, these international developments and internal developments, justify the present Bill. This will protect our national interests.

My learned friend, Mr. Ahluwalia, raised some points here. He expressed the apprehension, that if we would adopt such a Bill, that would restrict the hands of the Central Government and that we would not be in a position to enter agreement or treaties with foreign countries. There is no room for that apprehension. The proposed bill is not imposing any restrictions on the Govemment on entering into any contracts. What it intends is that the Central Govemment must get the ratification of Parliament before the contract comes into operation. So, the Govemment is at full liberty to discuss with foreign countries and foreign institutions and to come to some sort of draft agreements. The only thing is that before its operation, the Govemment should come to Parliament and get its approval. Why are we afraid of such a condition? Let the people know all these things. Let the people discuss all these things. If Parliament is involved and if the entire people are involved, definitely that will strengthen the hands of the Govemment and definitely that would strengthen our national interests. We can protect our national interests only with the help of Parliament. Why is the Govemment shying away from Parliament? There is no need for that apprehension. Even as per the present proposal, the Government can discuss with foreign countries and come to any agreement. The only thing is that it should get Parliament's ratification. This is the law in many countries in the world, more than 70 countries in the world. So, particularly in the context of the international changes and the domestic political changes, what is the harm in adopting such a course?

So, I appeal to my colleagues to support this Bill, to pass this Bill. This will safeguard our national interests.

Thank you, Madam.

THE VICE-CHAIRMAN (SHRIMATI KAMLA SINHA): Now Mr. S. M. Krishna.

SHRI GURUDAS DAS GUPTA (WEST BENGAL): Madam, may I secure your indulgence for five minutes?

THE VICE-CHAIRMAN (SHRIMATI KAMLA SINHA): I had called your name. You were not present.

SHRI GURUDAS DAS GUPTA: I was called by the Deputy Chairman. I had to go to her.

THE VICE-CHAIRMAN (SHRIMATI KAMLA SINHA): Yes.

SHRI GURUDAS DAS GUPTA: Madam, I rise to support this Private Member's Bill sponsored by Mr. Baby because the behaviour of the executive in the present time has been really reckless. I am not commenting on the behaviour of a particular Government. But, looking into the history of the parliamentary system in the country, it appears that one organ of the State, that is, the executive, is, in a way becoming really reckless. Although it is accountable to parliament, really taking advantage of the lacunae in the Constitution, taking advantage of this peculiar position, it is doing what it should not do.

4.00 P.M.

When an agreement with a foreign country is made, whether it involves finance, defence,

or any other aspect of life, the important question is that the Govemment which is the creature of the Parliament, must take prior approval. Otherwise the agreement should not be allowed to become a reality. If it is for the Parliament to approve or disapprove, then even knowing that the Govemment has a majority, the open and transparent discussion in the Parliament on the efficacy of implementation of an international agreement can point out the inadequacies and the probable potential, which is inherent in the agreement, can go against the interest of the country. If the Parliament is not allowed to exercise this control, then it is really a fact that the Executive is becoming reckless. The Executive is already becoming reckless in this country so far as foreign loans are concerned.

We have been borrowing funds at a high premium and today the condition of the economy is such that we have to borrow more to make repayment for the loan that we had obtained earlier. In a way, the country is being pushed into a stage of insolvency by the reckless borrowings that the Govemment has made. Besides the question of financial irresponsibility, there are many other agreements which, I believe, constitute a potential threat to our defence. At a point of time, a Government had entered into an agreement with a foreign country on the question of naval exercises. It never came to Parliament. There was a question of joint naval exercises. There is an agreement on intercourse of reports on intelligence. Our Intelligence Bureau Chief is reported to be regularly visiting the CBI headquarters. On the question of defence preparedness, it is reported that we exchange, as per an agreement, our information with a number of foreign countries, who are found to be harboring ill-feelings about our own country. It is never discussed in Parliament. I am afraid, Madam, before an agreement is signed, it is not discussed even in the Cabinet. The way the Cabinet functions and the way a particular decision is taken in the Cabinet, I am constrained to believe that all this is being done by the bureaucracy and Ministries and the Ministers are having very little time to scrutinse the opinion put forward by the bureaucracy. Therefore, in a sense, the country is held to ransom by the Indian Administrative Service i.e. the bureaucracy. Since the political leadership has very little time to look into it, it is at the behest of the bureaucracy that very important decisions, which bind not only the present, but also the posterity, are causing a serious danger. Therefore, the Parliament should be called upon to play the role of looking and re-looking, scrutinising and re-scruitnising before the seal of approval is given. This is a procedure to be laid down by amending the Constitution to ensure that the Executive does not become overpowerful and that the national interest is not sacrificed and every international treaty before being implemented is properly looked into by the Parliament. It is called Parliamentary vigilance. No parliament can exercise its vigilance, if the Constitution is not amended. Therefore, in order to enable Parlaiment to perform its duty, in order to enable Parliament to restrain the Govemment, in order to enable Parliament to restrain the recklessness of the Executing, such an amendment is essential and important.

Madam, I beg to support the Bill. I wish the Parliament by accepting this Bill, by amending the Constitution, will create a situation where parliament can play a more useful role than what it is being called upon to do at present. Thank you.

SHRI S.M. KRISHNA (Karnataka): Madam Vice-Chairperson, the Constitution (Amendment) Bill, 1992, to amend article 77, moved by my esteemed friend, Shri M. A. Baby has tremendous implications. I do not know why the founding fathers of our Constitution did not incorporate this particular aspect in the original Constitution itself. The Bill itself is very simple, in the sense that before any country enters into a treaty either with an international organisation or with any other country, the Parliament should be made privy to this situation. That is the sum and substance of what Mr. Baby wants this Bill to be all about. There are so many countries in the world which have incorporated this provision in their own Constitutions. Does that mean that they were not interested in the uplift of their own countries, development of their own countries, in the prosperity and progress of their

countrtes? In the forties and fifties when we bacaiffe- free when, the Constitution was written our g'lobat Involvement was very limited and none of Us Visualised that the uplift ' of this country was going to be so massive in the years to Come. Probaoly they did not think that it was proper to incorporate this provision[1]: in the original Constitution, Things have changed. Nations have changed Systems have changed. Concepts have changed. „One of the greatest tragedies in the twilight years of the twentieth century is the disintegration of the Soviet Union. As against two super powers", now there is only one superpower which has been left in the world. Today, who can match that superpower? That super power has never been indulgent towards other courntries, more Partrcularly those winch have- persued an independent line in international affairs. When Pandit Jawaharlal Nehru talked about the Non-Aligned Movement, the present day super power ridiculed that concept.

The then Secretary of State, Mr. Dullas, called it immoral. But, in later years, that very country had to fall in line with the concept of non-alignment and when the ranks of the non-aligned powers began to grow, the United States of America saw what a visionary Pandit Jawaharlal Nehru was when he proclaimed non-alignment as the creed of India's foreign policy.

Now this Bill provides a debate-perhaps a . debate a sustained dedate may be an in-depth debate. And who-say and who can say, that a sustained debate is not a healthy trend in a democracy? Democracy is basically a question of debating the pros and cons of a given proposition. When the Government makes ordinances, those ordinances are placed before the Houses of Parliament for ratification. Nowhere does the Bill say that it fetters the powers of the Executive to enter into a treaty or to come to a memorandum of understanding a contract or a deed. All that we want, all that the Bill asks for, is that Parliament should ultimately have the power either to reject it or to support it. If they have entered into a tready, it is in the larger interests of the country, if it is to take the country forward, no sensible Member of Parliament or no sensible political party will object to it or will oppose it. And that has been the tradition of the Indian Parlaimentary democracy. There have to be checks and counter-checks. What has happened' today? Today, is the Executive which feels that it is the sole monopolist of all wisdom in the eouittry. This myth has to Be shattered; this myth has to be debunked. Yes, we need the Executive, we need the bureaucracy, to help. Us, to assist us, to guide us, in certain matters. But we also need parliamentarians and Parliament to apply their mind so that a much wider debate can take place. Instead of TO braubs 800 brains are worked up. TKe/getfrfto action and they try to see a new angle in a given proposition of in a given treaty. Yes, we can raise external funds. But, take Parliament into confidence. That is not objectionable. Possibly, there is one argument which will have to be met by those who support this Bill, by those who sponsor this Bill, and that is with regard to the question of time factor which might come in certain cases, if there is an element of urgency. The Bill says that before enforcement of the provision it has to be ratified by Parliament. Suppose there is a grave emergency. Then, perhaps, itsmay be very difficult, for the Executive to summon Parliament and get its ratification: well, the Bill has been drafted as Mr. Baby has.seen it. Perhaps, the Government, with the a'ssistance of the Executive, which is the legal brain, can improve this Bill. They Can provide for contingencies of the kind which I have spelt out in cases of emergency. Then perhaps, we might find some kind of a way out in the Bill with which ultimately the Govemment might come forward when the Constitutional Amendment will take place.

Madam, any country's trade policy is set in a mould keeping in view the domestic and political interest at heart. Globalisation has become a reality and also it has become fashionable. In the name of globalisation and in the name of liberalisation, things-both wanted as well as unwanted - are invading our country. Our country is fast becoming a dumping ground of the rejects of the other countries and this must cause a serious concern to all those who value the interest of the country. Parliament should be a watch-dog on the treaty-making power of the Executive. That

is the essence of the Bill, as Mr. Justice V.R. Krishna Iyer has said. In the present dispensation, it is the Executive which has unfettered powers and freedom. So, it has to be qualified, and as a student of Political Science, and also as a student of History, I feel that though late, we have to accept this concept. And that concept is, when we are binding the succeeding generations of our countrymen in a treaty, Parliament, which is the representative of the people of this nation, should be privy; they should be the ultimate arbiters. With these few words, I support this Bill. Thank you.

THE VICE-CHAIRMAN (SHRIMATI KAMLA SINHA): Shri Nilotpal Basu.

SHRI R.K. KUMAR (Tamil Nadu): Madam, I have to go to a meeting of the Public Accounts Committee.

THE VICE-CHAIRMAN (SHRIMATI KAMLA SINHA): Do you want to speak right now?

SHRI R.K. KUMAR: Yes, Madam.

THE VICE-CHAIRMAN (SHRIMATI KAMLA SINHA): Okay. Speak for a few minutes.

SHRI R.K. KUMAR: I am not gate-crashing. I am coming in the line. Madam Vice-Chairman, I whole-heartedly support the Bill introduced by comrade M.A. Baby. After all, the crux of the matter is whether delegation of power should be absolute or conditional. So long, this power has been absolute. Now, the Bill makes it a little bit conditional. That is all that is involved in the introduction of this Amendment Bill. Madam, even the smallest of small tax on the citizens of the country cannot be levied without the authority of Parliament. Similarly, no expenditure can be incurred by the Government unless the Parliament passes a Budget or Vote-on-Account. That being the case, international treaties and agreements are entered into with huge financial implications on the subjects of this country. Some of these agreements have not only financial implications but also cultural and social implications on the subjects as well. What we have been concerned about is I will be very brief-in an organisation like the World Trade Organisation where decisions are taken affecting the interests of the developed, the developing and the under-developed countries, mostly, the economically mightier countries always take an advantage over the economically weaker countries.

There are many instances. In the last Ministerial Conference of WTO importance was given to information technology products on super-fast track compared to liberalisation of exports of products like textile and fabrics from underdeveloped countries.

The second point is that the entire process of negotiation is extremely untransparent. Madam, you may remember that for a whole day the proceedings were stalled in this House and the other House when a Ministerial Conference was going on in Singapore. We did not know what was happening. Ultimately, the Minister had to come back from Singapore and he had to clarify the position to the House. If we had a provision like the one which Mr. Baby is trying to incorporate tn the Constitution, both the Houses would have remained confident. After all, let them enter into any agreement in Singapore. We are not bothered. Utimately, it has to come here. We have to know about it before its implementation. If there had been a provision like the one which Mr. Baby is trying to incorporate in the Constitution, those two days would not have been lost. I don't want to elaborate because a lot of people had already spoken. This is the disadvantage of speaking last. Everybody has covered a lot of points. I want to say only one point.

SHRI M.A. BABY (Kerala): Why don't you elaborate? We Want to hear you.

SHRI R.K. KUMAR: They have already spoken. I will be only repeating. I don't want to repeat what others had spoken earlier. Mr. Pillai has spoken very well. Mr. Krishna has spoken very well. I don't want to repeat those things. I only want to make a point about the misgiving that if there is such a provision in the Constitution, the economic development will go down. It is ill-founded. As Mr. Pillai has rightly pointed out, if the 70 countries in the world have a similar provision—they are also doing business; they are doing faster business—why shouldn't we follow that example? As the hon. Member, Mr. Krishna,

has rightly pointed out, the Law Minister can find out what the corresponding provisions in those 70 countries are and .what they have contemplated lor emergencies and he can make suitable amendments. We have absolutely no objection to it.

I would like to conclude my speech by giving one example. If a small-scale industry wants to do business with a big corporation, the business is always done on the terms and conditions suitable to the big corporation. If there is any negotiation, a person should always have a leverage of reporting back to his superior or boss or of saying that this or that may not be accepted by his superior or boss. If there is" such a provision, it will help the Govemment in any international negotiations. If one feels that certain provisions are not in the national interest or in the public interest, he can always point out that this provision or that provision may not be.accepted by our Parliament and, therefore, change it like this way or that way to our advantage. This would give a leverage to the negotiators. With these few words I whole-heartedly support Mr. Baby's Bill and I hope that this Bill may be passed.

SHRI NILOTPAL BASU (West Bengal): Madam Vice-Chairperson, at the very outset, I should thank Mr. Baby for moving this Bill. Had the Bill been brought by the Govemment, it would have done justice to the content of the Bill. Actually, a very important debate is taking place on the Bill and many speakers here have made very good interventions. In spite of all that, it is very clear that the new Constitutional provision that this amendment seeks to incorporate in the main body of the Constitution has very important implications. I am not denying the fact that our Constitution and the basic framework on which our forefathers built the Constitution really mirrors in a very fine way the great traditions of the freedom struggle.

As is the nature of any living organism, the Constitution is not a dead-letter. The Constitution also reflects movements of time, movements of society, movements of economies and it also reflects the wishes, the aspirations, the concerns, the agonies the ecstasy of the people as a whole. So it would be too demanding of us if we expected that the Constitution would embrace all those aspects which reall y could not be envisaged at the point of time when the Constitution was written. Several speakers have mentioned this point. But the fact that we will have to go in for a large number of international treaties, the fact that we will have to go in for a large number of MOUs and we will have to go in for a large number of commercial transactions with foreign Governments and we will have to come around umpteen bilateral and multilateral negotiations, it is inherent in the contemporary global situation today. I would particularly like to highlight the developm.nt in one area i.e. science and technology which really has underlined the increasing interdependent nature of the global society today. There are aspects on which no individual country can take an independent decision. There has to be a global initiative and for that global treaties will have to be signed. For example, we can refer to the whole question of ecology or environment as it is being discussed by the world community today. So far as the issue of environment is concerned, it is not that it was not there in late 40s or early 50s, but definitely the significance which has been attached to this particular issue at the present point of time, could not be envisaged in late 40s or early 50s. Similarly there are several other issues of human races and global concerns against which human initiatives will have to be there at the global level. So there is no denying the fact that there will have to be a large number of international treaties, negotiations, and agreements both at the bilateral and multilateral levels. But the point is, how as a nation and as a people, we will respond to these things? Can these issues be left to the wisdom of the Govemment alone? That is the crux of the matter which is contained in the amendment which Shri M.A. Baby seeks to move. Right now there is a raging debate in the country about the power balance between three major pillars of our parliamentary democractic system, i.e. executive, judiciary and legislature. This is quite natural that such debates will have to take place in vibrant democracies. That is one of the significant implications that if we are vibrant, if we are dynamic as a society, as a democracy, such debates will have to take place not because of any inadequacy of the Constitution but there is a need for elaborating, updating and further enriching the already rich basis of our Constitution.

.In that context, the role that the legislature will have to play so as to respond to the emerging situation in terms of economy, in terms of politics, in terms of societal changes and in keeping with the new global phenomena that we are witnessing, becomes very important. We are witnessing such a process not only within the country but in the entire world. Some time back, the nations of Western Europe were engaged in an all-pervasive debate on the Maastricht Treaty. There was a raging debate on this issue. They had devised creative methods for ascertaining views of not only representatives of legislatures but also of people. The nature of changes that are taking place in the globe, the gigantic movement that is taking place in science and technology, the availability of information to people as a result of information revolution, makes it *sine qua non* for any significant political process to involve more and more people in decision making. Democracies all over the world are making rapid progress in devising new and more creative methods for involving people in the decision-making process, especially on issues which effect their day to day lives. In this context we have to see what our Parliament and our legislatures would be able to do. As regards the recent treaties that have been signed by the Govemment of India, whether it is the GATT or some other agreement at the level of the WTO, major controversies have arisen. There have been sharp debates inside the House as well as outside. These debates are taking place because of the nature of the decision taken. These international treaties are going to affect the day-to-day lives of our people. People have felt that a new patent law would definitely affect their life. Hence, they were got agitated. It is very necessary in that context to get pepole's opinion on issues which affect their day-to-day lives. This cannot be done away with in this kind of a transparent and democratic set-up that we are operating in People's opinions and views will have to taken note of before a decision is taken. Legislatures are invested with the right to discuss such issues. Otherwise, how can we claim that we represent people? We have to reflect the will of the people. We have the right to discuss such issues. It is in this .context that this amendment will have to be taken note of. I totally agree with what Mr. Krishna was saying. Some changes have to take place. But some unnecessary changes are also taking place.

So if we have to strike a balance among all these aspects, this right of the Parliament, the sovereignty of the Indian Parliament will have to be recognised in these areas and it is not intended to really curb the initiative of the Govemment. Now, how can we say, "No, no such a right will be there with the Parliament"? We have seen that while the United States administration was in the forefront of the initiative to get the GATT Treaty endorsed by all the nations, while the United States administration were in the forefront of the initiative to have the WTO signed, the provisions of Special 301 and Super 301 still exist in the Statute Book of the American Constitution. Notwithstanding whatever the international community agrees, the American Senate, the American House of Representatives of the People have special rights and that is not typical to the Americans. Everywhere it is there. So the point is, on such issues, we really cannot leave it to the Govemment to come to conclusions regarding the right of the Parliament to ratify international agreements. This has been put in a very appropriate manner in the amendment. This has to be incorporated otherwise, we will be failing in our responsibility to respond to the times in which we are conducting our business Now I understand that even the judiciary and some of the retired judges have considered the Uruguay Round Final Act and its constitutional implications. They have observed and I quote:

"The executive power conferred under Article 73 of the Constitution to enter into treaties must also be read along with Article 253 of the Constitution on implementation of treaties which reads as follows:—

"Legislation for giving effect to international agreement - Notwithstanding anything in the foregoing provisions of this chapter, Parliament has power to make any law for whore or any part of the territory of india for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association of other body."

"The effect of Article 253 is clearly to allow Parliament to make laws implementing a treaty, notwithstanding the fact that the subject matter of the treaty is contained in List II of the Seventh Schedule.

"The limitations on the exercise of the treaty-making power flow from certain principles which are fundamental to constitutional governance in India. The first is the general principle of accountability which requires government to accotint to the people for every exercise of power through the aegis of institutions set up by 'and under the Constitution. Such accountability may be through the law which lays down norms which discipline and govern the exercise of the power. Where no such law exists - and none exists to discipline the exercise of the treaty making power - the government is not free to do what it likes. Where the government chooses to proceed without serious recourse to any form of accountability, other institutions of governance cannot stand idly by.

"The second principle which is fundamental to the rule of law is that no person's rights can be altered without reference to 'law'.

"The third set of constraints flows from the basic structure of the Constitution. Although the basic structure doctrine was first enunciated to contain am over-extensive use of the power to amend the Constitution, the principles underlying the basic structure are also crucial aids to interpretation and factors be bome in mind when considering the exercise of executive power."

The Constitution-makers intended the Government to be possessed of a wider executive power. But in the exercise of this wider power, the rights of the citizens cannot be taken away without specific legislative sanction and authority. This rule is a necessary adjunct to the recognition of a wider executive power.

Madam, what I have said before is the opinion of the People's Commission on GATT comprising learned retired Judges.

Now the point is that we have seen it not only in our country but in other countries also. In our own country, the Parliamentary Standing Committee, the Chairman of which was the present External Affairs Minister, Gujralji, brought out a very rich report. The Committee opined that in the negotiating process itself, there were a lot of shortcomings and misgivings and India, being what it is, could have better negotiated whereby the balance of interest could further have been in favour of the developing countries. This was a clear-cut observation of the Parliamentary Standing Committee. The point is that this is not only a question of Parliament but is also a question concerning other aspects. International treaties have the potential of encroaching upon the rights of other institutions and people. We are a federal country and today we have a Government the existence of which is based on the federal principal, apart from secularism and other basic issues. The aim is to strengthen the federal polity of this country. But, as I said, international treaties have implications on the rights of the State Legislatures. The 73rd and 74th Amendment Acts have also encroached upon the powers and functions of the elected local bodies both at the panchayat-level and nagarapalika-level. Having understood the sweeping implications of treaties, can we give a free hand to the Govemment? When I say this, I am not doubting the sincerity or the *bona fides* of any particular Govemment. But the point remains that it will be a blemish on our democracy, at this point of time, if we give such sweeping powers to the Govemment. The critics of the Bill will have to argue on what account they oppose the Bill. I am given to understand that Mr. Ahluwalia had opposed the Bill on the ground that this would decelerate the process of economic development. I think that logic is sham. It was very well made out by Mr. Kumar in his speech. He was saying that the Americans were not having such laws, the Britishers were not having such laws, the Japanese, the French, the Germans were not having such laws relating to ratification of international treaties by their own respective legislative bodies. I think he is living in a make-believe world of his own. Unfortunately, Mr. Kumar was referring to certain unpalatable aspects of globalisation. The point he made was that in the name of fighting the mindsets, certain people are ferreting out what is being

sounded by the foreign-bank ideologues all over the world today. They are just blindly imitating some of the pronouncements that are being made from Washington or New York, The process of global integration, interdependence and greater interaction among the countries is going on. Then, how do we respond to all these changes? It is our prerogative. It is the prerogative of the Indian people. We cannot change and we cannot respond on their terms. It is true that with the collapse of the socialist camp we are more vulnerable today. The countervailing presence of the socialist forces that was there and that was lending a helping hand to the developing nations and the poor nations, is not there. There is definitely a shift in the co-relationship of political forces at the global level in favour of the developed countries. There is no doubt about that. But, at the.same time, developing countries like India have a big advantage. For economic development today you need market just as you need capital. It is a fact that we have markets shrinking in several areas. We are seeing it as a commercial phenomenon. The holders of capital definitely have an advantage. But, at the same time, those who have the markets, have an advantage too. So, what is to be seen is, how far the Governments of developing countries, especially the Govemment of India, are using this advantage. But we have seen it. I cannot talk with authority about many States but we have studied some of the areas during the last four or five years. Now, Mr. Krishna, who is sitting here, comes from Karnataka. There is a company which is called the Indian Telephone Industries. It is one of the finest industries engaged in the production of telecom equipment not only in the country, but it also compares well with many of the international entities. But the policy that is being followed there arises out of the same philosophy—the philosophy that asks us to blindly respond to situations and to not to respond on our own terms; the philosophy that asks us to respond to the dictates of others; the philosophy which asks us to just follow the prescriptions that are being given by developed countries and by countries which want to have a hegemony over our markets. So, the company which was one of the best companies here, is now on the verge of going to the BIFR. Why has this happened? Now, today the Indian industry—not only the public sector industry but also the private sector industry—has started saying that we have to strengthen our antidumping provisions because as a result of the kind of globalisation that has taken place, it is the indigenous industry that is at the receiving end. So, the point is, should we give sweeping powers to our executive to decide about international treaties which legitimise such philosophies that are coming from forces which want to exercise their hegemony over the global process of economic development? Should not the representatives of the Indian people have some say in this? Now, will it be decided in Singapore or Geneva or Washington as to what our Govemment$_e$will procure, what kind of a contract we will have, what kind of treaties we will have, what the modalities will be? Can we allow them to decide as to what is best suited to India, what kind of seeds the Indian farmer will use and what kind of Govemment policy will be there to promote our research and development? Will the Indian Parliament become irrelevant in terms of taking all such decisions? Because increasingly we are seeing that in the process of making such international treaties, social conditions of labour, human rights which are the exclusive prerogatives of all sovereign Parliaments are being sought to be hijacked by international bodies. I think, no conscientious patriotic Indian, less so any Parliamentarian from any side of this House, can in the right frame of mind agree to such a situation. Therefore, Madam, without taking much time of the House, I commend that this Bill be supported by all the Members from all sides of this House. Actually, I would urge upon the Govemment—having seen the mood of the Members who have spoken on this Bill; I am sure they have enriched some of the contentions that Mr. Baby wanted to express—to go ahead by really transforming this Bill into a proper Government Bill so that in the coming days the Indian Parliament will not be denied of its legitimate right to exercise the right of scrutiny, the right to debate and the right to discuss issues and Bills inherent in international treaties which affect the daily lives of millions of Indian men and women. Thank you.

SHRI JIBON ROY (West Bengal): Madam Vice-Chairperson, I rise to support the Bill introduced by my esteemed colleague Mr. M.A. Baby which seeks for Parliamentary ratification of all international treaties. Many hon. Members, many of my esteemed colleagues have already spoken on this issue, but I will add a few more points to it. I don't think that the Bill is introduced on academic considerations, and I sincerely feel that Mr. Baby has introduced this Bill based on ground realities. My feeling is that not only small treaties but also big treaties are being signed at international level and these are encroaching upon the basic tenets of our Constitution. Since we have signed the Marrakesh Treaty and the WTO and have decided to globalise our economy, in such a situation we won't be able to bargain with international tycoons and the developed powers unless we take the entire people of our country into confidence. Members from all sides of this House have agreed on a number of times that we are passing through a very, very difficult situation and that situation demands further consolidation of the under-developed and the developing countries. India is a leader of the developing countries and we expect that India should give the leadership. That leadership is just not possible if the Parliament is not taken into confidence and if we don't involve the entire people of our country in the process which is taking'place after globalisation of the economy.

Madam, we know, and it has been spoken about a number of times in this august House, that the Marrakesh Treaty and the WTO have attracted most of the basic parameters of our Constitution, like the federal character, division of subjects between the Centre and the States, etc. The Marrakesh Treaty, WTO and globalisation deal with the entire economy of our country. The WTO is the world economic body and all the economic laws and regulations being enacted in their respective Parliaments are meant to be subject to the WTO laws and such laws or acts have been signed by our country keeping the Parliament and the people in dark. The position cannot be accepted.

Secondly, Madam, the WTO or the-Marrakesh Treaty and all the new economic policies are set by the USA and they are now encroaching the taxation policy of our country and on all the member - countries of the Treaty. The WTO says that the customs duties have to be brought on to' the international level. It is also surprising that all the committees, the Chellaiah Committee or the Malhotra Committee, recommended in a manner what the WTO wanted. Now, successively every year we are reducing our customs duty on imports. This is so since the New Economic Policy was adopted. We are taking the position that customs duty should be on a par with international rates. Are we thinking on the same terms with regard to reducing excise rates and other internal tarrifs on a par with the international rates? No. Under compulsion we are reducing the customs duties but we are not reducing the rates in other areas like excise or corporate tax. As a result, our economy is suffering. There is dumping everywhere. There is an onslaught by foreign countries. Now-a-days, everything is being dumped. Steel is being dumped; chemicals are being dumped; drugs are being dumped; and, even, cowdung. They are being sold in our country at a much lower rate than the domestic rates. Therefore, it is the compulsion of the situation. I would like to say that it is not a free decision but it is under compulsion because of the agreement. These years a number of statements have come on steel plants. Many steel furnaces have closed down. At least two blast furnaces have closed down and many would close down because our products are not in a position to compete with foreign products. This is the situation of the economy. It is done, as I have said, under compulsion of situation and the compulsion is that we have signed and agreed to globalise and the treaty of globalisation is not discussed by the Parliament or by the nation. The basic principle of our economy is equality, equality of States, equality of people. The main, fundamental principle of the WTO is survival of the fittest Those will survive only who are strong, and others will perish. Does this not attack the fundamentals of our Constitution? Our Constitution says that our country is a socialist country but the economic policy says it is on the policy of survival of the fittest. Therefore, a contradictory situation has been created.

[THE DEPUTY CHAIRMAN *in the Chair.]*

Madam, there is a saying in our country: The Ramayana was written before Rama was bom. Marrakesh was signed in April, 1994 and the Dunkel Draft was signed in 1993.

5.00 P.M.

But the Industrial Policy and the Economic Policy were introduced in the middle of 1991. These Policies were introduced when the elections had already taken place. These Policies were the reflection of Marrakesh world view and just reversed the Economic Policy and the Industrial Policy of 1956 of our country. In the election document or the election manifesto of the Congress Party, it was not discussed, it was not debated that a policy which had been adopted through discussion, through consensus amongst the political parties would be changed after the new Govemment came to power. I feel while being changed it was not discussed even at the Govemment level very seriously. If it had been discussed, how was it possible for a Govemment which came to power in June 1991 that within a period of three months it brought about far-reaching changes in the economy? It was because the bureaucracy in consultation with, in collusion with, the international economic power, had prepared all the papers well in advance and it was imposed on the Govemment which came to power without giving any real consideration to the situation. Though I was not a Member of this House, I saw one fine morning that the Economic Policy and the Industrial Policy had been placed before the House which reversed the entire system, the entire earlier Economic Policy. Therefore, Madam, the question that arises is.....*(Interruptions)*.....

THE DEPUTY CHAIRMAN: Are you going to conclude or shall I keep it pending for the next Friday?.....*(Interruptions)*....

SHRI JIBON ROY: Yes, Madam. ....*(Interruptions)*.....

SHRI PRANAB MUKHERJEE (WestBengal): Madam, we can keep it pending for the next Friday.....*(Interruptions)*....

THE DEPUTY CHAIRMAN: If the mover of the Bill wants, we can do so. ....*(Interruptions)*.....

SHRI M.A. BABY: Yes, Madam. ....*(Interruptions)*.... I agree.

THE DEPUTY CHAIRMAN. I adjourn the House till 11 o'clock on Monday.

The House then adjourned at two minutes past five of the clock till eleven of the clock on Monday, the 24th February, 1997.